

**Amendment and Response**

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Serial No.: 09/864,866

Confirmation No.: 2264

Filed: May 23, 2001

For: DNA REPAIR POLYPEPTIDES AND METHODS OF USE

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**Remarks**

The Office Action mailed July 30, 2003 has been received and reviewed. Claims 10, 22, 26, 30, 34, 38, and 42 having been cancelled, the pending claims are claims 9, 21, 25, 29, 33, 37, and 41.

Claim 25 is amended to correct a typographical error.

**Summary of Interviews under 37 C.F.R. § 1.133(b)**

On July 15, 2003, the Examiner informed the undersigned telephonically that the claims containing the term "exogenous" should be canceled. On July 23, 2003, the undersigned called the Examiner and discussed this issue with the Examiner in further detail. Specifically, the undersigned noted that a rejection of the claims based on the term "exogenous" was not of record, and requested that the finality of the Office Action mailed April 2, 2003, be withdrawn and a non-final Action be mailed. The Examiner is thanked for the courtesies extended during the interviews.

**The 35 U.S.C. §112, Second Paragraph, Rejection**

The Examiner rejected claims 10, 22, 26, 30, 34, 38, and 42 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. Specifically, the Action asserts that the term "exogenous" in claims 10, 22, 26, 30, 34, 38, and 42 does not make the scope of the claims different from that of claims 9, 21, 25, 29, 33, 37, and 41. This rejection is respectfully traversed. In the interests of furthering prosecution, claims 10, 22, 26, 30, 34, 38, and 42 are canceled.

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**Summary**

It is respectfully submitted that the pending claims 9, 21, 25, 29, 33, 37, and 41 are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted for  
Lloyd et al.

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**CERTIFICATE UNDER 37 CFR §1.8:**

The undersigned hereby certifies that this paper is being transmitted by facsimile in accordance with 37 CFR §1.6(d) to the Patent and Trademark Office, addressed to Assistant Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 22nd day of August, 2003, at 11:55AM (Central Time).

By: Sara E. Olson  
Name: SARA E. OLSON

**OFFICIAL**